

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

LEUPOLD & STEVENS, INC.,

Plaintiff / Counterclaim-Defendant,

v.

LIGHTFORCE USA, INC. d/b/a
NIGHTFORCE OPTICS and
NIGHTFORCE USA.

Defendant / Counterclaimant.

No. 3:16-cv-1570-HZ

JOINT STATUS REPORT

Pursuant to the Court's February 8, 2017 order (Dkt. # 25 and 18), Plaintiff Leupold & Stevens, Inc. and Defendant Lightforce USA, Inc. d/b/a Nightforce Optics and Nightforce USA ("Lightforce"), by and through counsel of record, present this joint status report to the Court regarding the parties' proposed pre-trial deadlines and trial dates.

1. Plaintiff's Proposal:

Leupold & Stevens, Inc. ("Leupold") proposes the schedule described in the following table. The parties agree on the trial date and certain pretrial events and deadlines. The differences between the parties' proposals relate primarily to the amount of time for additional written fact discovery. Both sides' proposals contemplate sufficient time for document review prior to the completion of fact depositions. With Nightforce's document production having been deficient and remaining substantially incomplete and Nightforce's requests for supplemental document productions from Leupold, both sides' proposals provide sufficient time after the close of document discovery for fact depositions. However, Nightforce's proposal seeks an additional

month-and-a-half to serve additional interrogatories and requests for admission even though Defendant has already served 21 interrogatories (including many with multiple subparts) and 128 requests for admission. Leupold believes this further delay is unnecessary and would necessitate pushing back the expert witness dates and dispositive motions deadline.

<u>Event</u>	<u>Leupold's Proposal</u>	<u>Current Deadline</u>
Deadline to complete document productions (other than routine supplementation and/or newly discovered evidence), interrogatories, and requests for admission	4/2/2018	4/2/2018
Deadline for Counsel to Confer re Method and Timing of ADR Procedures and File Joint ADR Report	4/2/2018	4/2/2018
Disclosure of Reliance Upon Advice of Counsel Defense	4/2/2018	4/2/2018
Date to complete fact depositions	6/8/2018	4/2/2018
Deadline for fact discovery motions (if any)	6/15/2018	4/2/2018
Opening expert reports	6/22/2018	5/31/2018
Rebuttal expert reports	7/20/2018	6/30/2018
Close of expert discovery	8/10/2018	7/31/2018
Deadline to file dispositive motions	8/31/2018	8/31/2018
ADR Deadline	10/31/2018	10/31/2018
Summary Judgment Oral Arguments	t/b/d by the Court	t/b/d by the Court
The Court's Summary Judgment Order	t/b/d by the Court	t/b/d by the Court
1st Wave of Pre-Trial Filings (exhibits and exhibit lists; lay and expert witness statements; itemized list of economic damages; deposition designations; trial briefs)	2/15/2019	
2d Wave of Pre-Trial Filings (motions in limine; proposed voir dire questions; proposed jury instructions; proposed verdict form; objections to witnesses; impeachment witnesses/exhibits)	2/22/2019	

<u>Event</u>	<u>Leupold's Proposal</u>	<u>Current Deadline</u>
3d Wave of Pre-Trial Filings (one-page list of all potential witnesses; rebuttal witness statements and exhibits; responses to motions in limine; objections to exhibits; objections to witnesses)	3/1/2019	
Final Wave of Pre-Trial Filings (joint motion in limine ruling chart; joint witness and exhibit ruling chart)	3/8/2019	
Final Pre-Trial Conference	3/15/2019	
TRIAL	March 25, 2019 (15 trial days)	

2. Defendant's Proposal:

Lightforce sets for its proposed schedule in the table below. In short, the parties largely agree on the trial date and pretrial events and related deadlines. The differences between the parties' proposed schedules primarily relate to the sequencing of fact and expert discovery. Specifically, Lightforce's proposed schedule contemplates allowing sufficient time for the parties to review documents produced by the other side and evaluate the need for any follow up written discovery in view of those documents, and/or supplements to prior written discovery responses in view of those documents. Here, for example, Plaintiff Leupold's document production to date is far from complete. Lightforce's proposed schedule also allows for the scheduling of fact depositions in an orderly fashion; i.e., after most written discovery is complete. It is anticipated that deposition scheduling will require substantial coordination and logistics to complete fact depositions. For example, Lightforce anticipates deposing third party prior art witnesses on the east coast, and possibly in foreign countries. There are also many party fact witnesses, including Leupold employees and prosecuting attorneys, who will be deposed.

<u>Event</u>	<u>Nightforce's Proposal</u>	<u>Current Deadline</u>
Deadline to complete document productions (other than routine supplementation and/or newly discovered evidence, or evidence newly produced by a 3 rd party).	4/2/2018	4/2/2018
Deadline for Counsel to Confer re Method and Timing of ADR Procedures and File Joint ADR Report	4/2/2018	4/2/2018
Disclosure of Reliance Upon Advice of Counsel Defense	4/2/2018	4/2/2018
Respond to all interrogatories, and requests for admission	5/11/2018	4/2/2018
Date to complete fact depositions	6/29/2018	4/2/2018
Deadline for fact discovery motions (if any)	7/13/2018	4/2/2018
Opening expert reports as required by Fed. R. Civ. P. 26(a)(2)(A)-(C)	7/20/2018	5/31/2018
Rebuttal expert reports as required by Fed. R. Civ. P. 26(a)(2)(D)(ii)	8/24/2018	6/30/2018
Close of expert discovery	9/14/2018	7/31/2018
Deadline to file dispositive motions and motions to exclude or limit expert testimony	10/5/2018	8/31/2018
ADR Deadline	11/16/2018	10/31/2018
Summary Judgment Oral Arguments	-	t/b/d by the Court
The Court's Summary Judgment Order	-	t/b/d by the Court
Plaintiff to serve proposed pretrial order, jury instructions and verdict form	2/1/2019	
Defendant to serve objections and counterproposals for proposed pretrial order, jury instructions and verdict form	2/8/2019	

<u>Event</u>	<u>Nightforce's Proposal</u>	<u>Current Deadline</u>
1st Wave of Pre-Trial Filings (exhibits and exhibit lists; lay and expert witness statements; itemized list of economic damages; deposition designations; trial briefs)	2/15/2019	
2d Wave of Pre-Trial Filings (motions in limine; voir dire questions; jury instructions; verdict form; objections to witnesses; rebuttal witnesses/exhibits lists)	2/22/2019	
3d Wave of Pre-Trial Filings (one-page list of all potential witnesses; rebuttal witness statements, deposition designations and exhibits; responses to motions in limine; objections to exhibits; objections to witnesses)	3/1/2019	
Final Wave of Pre-Trial Filings (lodge proposed pretrial order, joint motion in limine ruling chart; joint witness and exhibit ruling chart; objections to rebuttal witness statements, deposition designations and exhibits)	3/8/2019	
Final Pre-Trial Conference	3/15/2019	
TRIAL	March 25, 2019 (15 trial days)	

DATED this 5th day of March, 2018.

Respectfully submitted,

STOEL RIVES LLP

/s/ Kassim M. Ferris

Kassim M. Ferris, OSB No. 965260
Nathan C. Brunette, OSB No. 090913
760 S.W. Ninth Ave., Suite 3000
Portland, OR 97205
Telephone: (503) 224-3380
Facsimile: (503) 220-2480
kassim.ferris@stoel.com
nathan.brunette@stoel.com

Brian C. Park (*pro hac vice*)
600 University Street, Suite 3600
Seattle, WA 98101-4109
Telephone: (206) 386-7542
Facsimile: (206) 386-7500
brian.park@stoel.com

Attorneys for Plaintiff
LEUPOLD & STEVENS, INC.

KLARQUIST SPARKMAN, LLP

/s/ Scott E. Davis

Scott E. Davis, Esq., OSB No. 022883
One World Trade Center
121 SW Salmon Street, Suite 1600
Portland, OR 97204
scott.davis@klarquist.com
Todd M. Siegel, OSB No. 001049
todd.siegel@klarquist.com
(503) 473-0933

CASIMIR JONES, S.C.

David A. Casimir, Esq. (*pro hac vice* forthcoming)
2275 Deming Way, Suite 310
Middleton, WI 53562
dacasimir@casimirjones.com
(608) 662-1277

Attorneys for Defendant
LIGHTFORCE USA, INC.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **JOINT STATUS REPORT** was electronically filed today with the Clerk of the Court using the Court's CM/ECF system, which will serve and send notification of such filing to all counsel for the parties who have appeared in this case.

Additionally, a true and correct copy of the foregoing was served today via U.S. Mail, postage prepaid, as follows:

CASIMIR JONES, S.C.
David A. Casimir, Esq.
dacasimir@casimirjones.com
2275 Deming Way, Suite 310
Middleton, WI 53562

Attorneys for Defendant
LIGHTFORCE USA, INC.

KLARQUIST SPARKMAN, LLP
Scott E. Davis, Esq., OSB No. 022883
scott.davis@klarquist.com
Todd M. Siegel, OSB No. 001049
todd.siegel@klarquist.com
One World Trade Center
121 SW Salmon Street, Suite 1600
Portland, OR 97204

Attorneys for Defendant
LIGHTFORCE USA, INC.

DATED this 5th day of March, 2018.

STOEL RIVES LLP

s/ Nathan C. Brunette
Kassim M. Ferris, OSB No. 965260
Nathan C. Brunette, OSB No. 090913
Elliott J. Williams, OSB No. 144835
760 SW Ninth Avenue, Suite 3000
Portland, OR 97205
Telephone: (503) 224-3380
Facsimile: (503) 220-2480
kassim.ferris@stoel.com
nathan.brunette@stoel.com
elliott.williams@stoel.com

Brian C. Park (*pro hac vice*)
600 University Street, Suite 3600
Seattle, WA 98101-4109
Telephone: (206) 386-7542
Facsimile: (206) 386-7500
brian.park@stoel.com

Attorneys for Plaintiff